

FERTILIZER COMMISSION HEARING

October 16, 2008

10:00 am

Veteran's Memorial Auditorium

5825 Florida Boulevard

Baton Rouge, LA 70806

Minutes

CALL TO ORDER

The hearing was called to order by Fred Bass at 10:09 am

ROLL CALL

The roll was called by Lauren Boydston

Members Present

Members Absent

Fred Bass representing -----Commissioner Mike Strain

Dr. David Morrison representing -----Dr. David Boethel

Dr. Paul Coreil

Don Philley

Kyle McCann representing -----Mr. Ronnie Anderson

Other Attendees

Marvin Montgomery

Lindsey Hunter

Dr. Robert Beine

Dr. Mark LeBlanc

J Stevens

Cheryl McGee

Lauren Boydston

Rodney Hendricks

Todd Parker

DECLARATION OF A QUORUM

Fred Bass declared a quorum present

APPROVAL OF MINUTES

Dr. David Morrison made a motion to approve the minutes. Mr. Don Philley seconded the motion. Motion approved unanimously.

APPOINTMENT OF NEW DIRECTOR OF FERTILIZER COMMISSION

Dr. David Morrison made a motion that Dr. Mark LeBlanc be named Director of Fertilizer Commission. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

SET NEXT DATE FOR HEARING

Hearing set for Thursday October 15, 2009.

OLD BUSINESS

None at this time

HEARING OF CASES

Hearing turned over to Ms. Lindsey Hunter, Hearing Officer from Attorney General's Office. All Findings of Fact and Law will be made by the Commission members. She asked Mr. Montgomery to call cases as he see fit.

CASES

Call cases according to 3 quarters late, 4 quarters late, those who stipulated, and those who did not stipulate.

Cases to be continued until next year

Cases 08-10-14 and Cases 08-10-15

R&J Partnership and Red Fox Fertilizer continue until next year
Continuance granted

Case continued from last year

Case 07-10-01

Magee Feed LLC – Stipulation and Charge Letter accepted into evidence
Dr. Morrison made the motion to accept the stipulation and charge letter as evidence. Kyle McCann seconded the motion. Passed unanimously.
Magee Feed be placed on probation for one year.

Cases that need testimony

Case 08-10-10

Nature's Perfect Blend/Organic X – Charge Letter with green card attached accepted into evidence.
Mr. Montgomery asks that a findings of fact and conclusion of law that Nature's Perfect Blend/Organic X be fined \$200.00 per violation for a total fine of \$600.00. A motion was made by Dr. Paul Coreil that Nature's Perfect Blend/Organic X be fined \$200.00 per violation for a total fine of \$600.00. Don Philley seconded the motion. Motion passed unanimously.

Mr. Montgomery asks that Dr. LeBlanc be sworn in. Dr. LeBlanc is sworn in to answer questions for the following cases.

Case 08-10-12 – NuGro Technologies

Case 08-10-18 - Bio Game Solutions

Case 08-10-21 - Tractor Supply

Mr. Montgomery asks that Dr. LeBlanc remained sworn in to answer questions for this case and all cases to follow.

Case 08-10-12

NuGro Technologies – Charge Letter with white card attached accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that NuGro Technologies be fined \$100.00 per violation for a total fine of \$300.00. A motion was made by Mr. Don Philley that NuGro Technologies be fined \$100.00 per violation for a total fine of \$300.00. Dr. Paul Coreil seconded the motion. Motion passed unanimously.

Case 08-10-18

Bio Game Solutions – Charge Letter with green card attached accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Bio Games Solutions be fined \$100.00 per violation for a total fine of \$400.00. A motion was made by Mr. Kyle McCann that Bio Game Solutions be fined \$100.00 per violation for a total fine of \$400.00. Dr. David Morrison seconded the motion. Motion passed unanimously.

Case 08-10-21

Tractor Supply Company – Charge letter with green card attached accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Tractor Supply be fined \$100.00 per violation for a total fine of \$400.00. A motion was made by Mr. Don Philley that Tractor Supply be fined \$100.00 per violation for a total fine of \$400.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Cases with 3 violations w/ no prior violations

Case 08-10-01; Case 08-10-03; Case 08-10-04; Case 08-10-05; Case 08-10-07; Case 08-10-09; Case 08-10-16; Case 08-10-17

Case 08-10-01

Agriliance Distribution/ Woodworth – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Agriliance/Woodworth be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Agriliance/Woodworth be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-03

Benick Brands Cp, LLC – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Benick Brands be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Benick Brands be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-04

DMF Bait Company - Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that DMF Bait Company be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that DMF Bait Company be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-05

Doggett Corporation – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Doggett Corporation be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Doggett Corporation be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-07

Evolved – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Evolved be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Evolved be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-09

Laminations Inc – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Laminations Inc be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Laminations Inc be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-16

Summit Responsible Solutions – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Summit Responsible Solutions be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Summit Responsible Solutions be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Case 08-10-17

Winston Company – Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Winston Company be fined \$100.00 per quarter for a total fine of \$300.00. A motion was made by Mr. Don Philley that Winston Company be fined \$100.00 per quarter for a total fine of \$300.00. Mr. Kyle McCann seconded the motion. Motion passed unanimously.

Cases with 3 violations with one prior appearance**Case 08-10-06; Case 08-10-08; Case 08-10-13****Case 08-10-06**

Erth Products - Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Erth Products be fined \$200.00 per quarter for a total fine of \$600.00. A motion was made by Dr. David Morrison that Erth Products be fined \$200.00 per quarter for a total fine of \$600.00. Mr. Fred Bass seconded the motion. Motion passed unanimously.

Case 08-10-08

Jiffy Products of America Inc - Charge letter with green card attached as well as the stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Jiffy Products be fined \$200.00 per quarter for a total fine of \$600.00. A motion was made by Dr. David Morrison that Jiffy Products be fined \$200.00 per quarter for a total fine of \$600.00. Mr. Fred Bass seconded the motion. Motion passed unanimously.

Case 08-10-13

Potash Import & Chemical Corp – Charge letter with green card attached as well as stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Potash Import & Chemical Corp be fined \$200.00 per quarter for a total fine of \$600.00. A motion was made by Dr. David Morrison that Potash Import & Chemical Corp be fined \$200.00 per quarter for total fine of \$600.00. Mr. Fred Bass seconded the motion. Motion passed unanimously.

Case with 3 violations with more than one prior appearance**Case 08-10-02**

American Colloid Company – Charge letter with green card attached as well as stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that American Colloid Company be fined \$500.00 per quarter for a total fine of \$1500.00. A motion was made by Dr. Paul Coreil that American Colloid Company be fined \$500.00 per quarter for a total fine of \$1500.00. Dr. David Morrison seconded the motion. Motion passed unanimously.

Cases with 4 violations with no prior appearances**Case 08-10-19; Case 08-10-20; Case 08-10-23****Case 08-10-19**

Nelson Plant Food – Charge letter with green card attached as well as stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Nelson Plant Food be fined \$100.00 per quarter for a total fine of \$400.00. A motion was made by Mr. Kyle McCann that Nelson Plant Food be fined \$100.00 per quarter for a total fine of \$400.00. Mr. Don Philley seconded the motion. Motion passed unanimously.

Case 08-10-20

T.L.M. Garden-ville – Charge letter with green card attached as well as stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that T.L.M. Garden-ville be fined \$100.00 per quarter for a total fine of \$400.00. A motion was made by Mr. Kyle McCann that T.L.M. Garden-ville be fined \$100.00 per quarter for a total fine of \$400.00. Mr. Don Philley seconded the motion. Motion passed unanimously.

Case 08-10-23

Naturize Bio Sciences – Charge letter with green card attached as well as stipulation accepted into evidence. Mr. Montgomery asks the findings of fact and conclusions of law that Naturize Bio Sciences be fined \$100.00 per quarter for a total fine of \$400.00. A motion was made by Mr. Kyle McCann that Naturize Bio Sciences be fined \$100.00 per quarter for a total fine of \$400.00. Mr. Don Philley seconded the motion. Motion passed unanimously.

Conclusion of Cases

Mr. Montgomery addresses the Commission

Mr. Montgomery talks to Commission about a couple of issues regarding what determines a violation and charging per violation rather than per quarter in the Fertilizer Laws and Rules & Regulations. Each violation is subject to \$500.00 per violation maximum. With 3 quarters late, it is 6 separate violations and a maximum of \$3000.00 fine. We are going to change the stipulation with agreement of what the fine is going to be. If you want to reject, we will reschedule it and bring it to a hearing in front of you the Commission instead just what the stipulation says. You (Commission) want to do in regards whether to place the company on suspension or place registration of company on probation, that would be in your discretion, we can take that first step on whether you want to do it on all of it or just the ones that have been to previous hearings. That is something you have to decide. Normally we have not done that in years past. Most of the companies are out of state. If you the commission disagrees, with the suggested fine, we will bring it back to hearing the following year. You can place on probation at the hearing. Only if the companies registration is suspended or revoked does the Commission wait till the next hearing for that. Is it too much that we have how long they have registered and when and how much they sold was the last amount of tonnage sold when they sold tonnage. We can provide that information. Dr. Beine suggests that the Commission give us some suggestions on guidelines and categories of what they want to see on the classic cases that we see. If you are 3 or more, you are taken to the hearing. If you send in the tonnage after the 20th, you are subject to the late fee. If you are after 30 days or more for late for at least 3 quarters, you will be taken to the hearing. No company will be brought for a hearing if there tonnage reports are filed after 20 days after they are due but 30 days for they are due. Motion passes unanimously.

Break for 5 minutes

New Business

Dr. Beine discusses possible changes in Rules & Regulations. Thanks the Commission and the staff for everything they have done. The fertilizer law does not require submission of labels with registration. The label needs to require a list of ingredients on the label. If we have things listed on label that is not a known fertilizer, we will not register product until you can prove that the fertilizer is an actual fertilizer. You need to have testing done to prove it is a fertilizer and we will register. Ask for AgCenter help and deny registration until approval of ingredients is accepted. They will usually not follow through this process if they already no they will not pass the test. What about the questionable labels, they will have to send in labels with their registration. You can turn down registration of one product while registering another product. It does not affect major suppliers of fertilizers. Plant growth hormone types falls under the pesticide law in the state. When we hear that they are registered as a pesticide or we hear it does not need to be registered as a pesticide, we will possibly register it. Jay Stevens and Rod Hendricks are the main people that are the go to guys on this subject. Is it suitable as a fertilizer in this state. Does it contain fertilizer ingredients. Tolerances are set in the law what states a violation. When you have a tonnage of 2 tons it is not worth putting a stamp on. We need to set a minimum for example \$10.00 for a minimum. Each year we send a survey questionnaire to see what companies are selling ingredients for. We average those to get the number for the penalty. Internet sales are a hard nut to crack when you don't know where the fertilizer is actually sold. The money exchanged or the mailing address is the only way to find out. We find a product on the shelf and we will send them a letter stating they need to be registered. Some are regulations changes and some are legalize changes that need to go to the legislature. We anticipate calling a hearing before next year on this note. Dr. Paul Coreil and Dr. David Morrison make a

motion thanking Dr. Robert Beine for all he has done for the Department of Agriculture and Forestry as well as the Ag Center. Motion is unanimous. You can request us to proceed and call another meeting prior to the hearing next year.

Jay Stevens and Rod Hendricks address the Commission. They are part of the team that looks at the fertilizer material or by product material. You have two pieces of material in front of you. Terra Renewal Services is registered as a fertilizer company in the state of Louisiana. If it is injected 18 inches into the ground it will help because of the subsoil. Rod Hendricks speaks about wastes being registered as a fertilizer products. We are unusual in the Lime Law in having this in the state. Sewage sludge being beneficial usage as a fertilizer. It has nutrients but we don't have any data. By registering this as a fertilizer, they are dancing around the law. Support Dr. Beine's recommendation that we see labels and ingredients for what we are registering as fertilizers. The company is registered but we don't have to see the labels, but we need to see the labels because there are no regulations in the state. In 2000, 6 billion dollars worth of fertilizer sold in lawn and garden shops in the country. We try to see this particular problem be remedied. The only problem is that he can register company without listing material.

Public Comment

None

Motion to Adjourn

Mr. Fred Bass asks for a motion to adjourn. Mr. Don Philley makes the motion to adjourn. Dr. David Morrison seconds the motion. Motion passed unanimously.

Mr. Fred Bass thanks everyone for their cooperation and the great job they are doing.